IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI JUSTICE G.BIKSHAPATHY**

**AND**

**THE HON'BLE SRI JUSTICE P.S.NARAYANA**

**WRIT PETITION NO : 24054 of 2004**

Between:

The Government of A.P., represented by its Secretary, Medical & Health Family Welfare Department, Secretariat Buildings, Hyderabad –22.

2. The Director of Health, A.P., Hyderabad-01

**..... PETITIONER**

AND

Dr.Balaji V.Pawar, Medical Officer, Sirgapur, Medal District.

**.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction more particularly one in the nature of writ of Certiorari calling for the records connected with order dated 07.04.2004 in O.A.No.7465 of 1999 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad and to quash the same as erroneous and contrary to law.

**The Court made the following :**

**O R D E R:** ( PER GB.J)

This writ petition is filed by the Government challenging the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.7465 of 1999, dated 07.04.2004.

The respondent was working as Medical Officer, Government Hospital, Edugurallapally, Khammam District. He was issued with a charge memo alleging that he procured medicines from medical stores without any permission from the higher authorities. Therefore, an enquiry was conducted against the respondent and thereby he was imposed punishment of deferment or four annual grade increments with cumulative effect. Against the said order, an appeal was filed by the respondent. As the Government refused to interfere with the order of punishment, the respondent herein filed the said O.A. before the Tribunal and the Tribunal by order dated 07.04.204 set aside the order of punishment. Assailing the said order, this writ petition is filed by the Government.

The learned Government Pleader submits that the illegal order cannot constitute precedent in respect of other matters also. But, in this case, the Tribunal has considered this matter and held that when similarly situated persons who committed similar mistakes cannot be discriminated.

By order, dated 07.04.2004, the Tribunal held as follows:

> *"Thus, it is seen from the records that the said Dr.A.Shankar Rao as well as the applicant herein are exactly similarly situated inasmuch as both of them have placed the indents to M.S.D. directly and both of them have issued letters to the M.S.D. for cancelling the said indents and in both the cases,*

*stoppage of annual grade incremetss with cumulative effect was ordered. In respect of the applicant, four annual grade increments were accordingly stopped and in respect of that Dr.A.Shankar Rao, three annual grade increments were stopped. Thus, these individuals stand on the same footing and there was no reason to discriminate between these two. But, however, by rejecting the appeal of the applicant, which as made against the orders of the Director of Medical & Health ordering stoppage of four annual grade increments with cumulative effect, the Government have made discrimination between the two and thus, violated Article 14 of the Constitution of India.*

*In view of this, the impugned orders issued by the Director of Medical & Health ordering stoppage of four annual grade increments as well as the orders of the Government rejecting the appeal of the applicant are set aside. Also, the respondents are directed to release the annual grade increments, if they were already with-held, within a period of three months from the date of receipt of this order. The Government also directed to accord similar treatment to the applicant as was done in the case of Dr.A.Shankar Rao by ordering payment of full pay and allowances during the period of his suspension."*

It is the specific contention of the learned counsel for the respondent that in respect of Dr.A.Shankar Rao, against whom similar charges were levelled, the Government set aside the order of punishment Therefore, the Tribunal taking into consideration the similar circumstances, set aside the order of punishment.

Keeping in view the orders passed by the Government in respect of Dr.Shankar Rao, we do not find any illegality in the order passed by the Tribunal.

The writ petition is accordingly dismissed. No costs.

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G.BIKSHAPATHY.J.,

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P.S.NARAYANA.J.,

Dt.22.03.2005

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To

1. The Secretary, Government of A.P., Medical & Health Family Welfare Department, Secretariat Buildings, Hyderabad-22

2. 2CCs to the G.P. for Services-1

3. 2CD copies.